

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF SAN DIEGO
HEALTH AND HUMAN SERVICES AGENCY
AND**

FOR THE CALFRESH RESTAURANT MEALS PROGRAM

This Memorandum of Understanding (hereinafter "MOU") is entered into by and between the County of San Diego, Health and Human Services Agency (hereinafter "COUNTY") and _____ (hereinafter "RESTAURANT"), located at _____ and is predicated upon the following:

The purpose of this MOU is to establish the terms and conditions under which the RESTAURANT will provide low-cost prepared meals and offer healthy options to eligible Program Participants of the CalFresh Program, who are identified by the COUNTY as being elderly, disabled, or homeless.

A chain of two or more restaurants under the same ownership and structure may participate under one MOU with the COUNTY. Provide and attach a typed list of restaurant name(s) and business address(es) to the MOU upon submission.

In addition, the County of San Diego Health and Human Service Agency agreements support the *Live Well San Diego* initiative. *Live Well San Diego* (LWSD) was developed by the County of San Diego as a comprehensive, innovative strategy on wellness. This long-term plan combines the efforts of partners inside and outside County government to help all residents be healthy, safe, and thriving. All HHSA partners to this agreement, to the extent feasible, are expected to advance this initiative, which is being implemented in a phased approach. The first phase, Building Better Health, was adopted by the Board of Supervisors in 2010, and focuses on improving the health of residents and supporting healthy choices. The second phase, Living Safely, seeks to ensure residents are protected from crime and abuse, neighborhoods are safe, and communities are resilient to disasters and emergencies. The third phase, Thriving, focuses on promoting a region in which residents can enjoy the highest quality of life.

Information about the initiative can be found on the County's website and a website designated to the initiative:

- http://www.sdcounty.ca.gov/hhsa/programs/sd/live_well_san_diego/index.html; and
- <http://www.LiveWellSD.org>

The parties enter into this MOU based on the following terms and conditions:

**Article I
Program Provisions**

1. Terms of Agreement

- A. The term of this MOU shall commence on the date of execution of the MOU by the Director, Health and Human Services Agency, and continue for five calendar years from that date. This MOU may be renewed thereafter for successive five year periods, commencing on the

date of signing by the Director of the Health and Human Services Agency, unless terminated earlier or otherwise amended.

2. COUNTY Responsibilities

- A. COUNTY shall certify eligible elderly, disabled, or homeless participants of CalFresh (herein "Program Participants") to purchase low-cost meals with CalFresh benefits in restaurants that have been certified by the United States Department of Agriculture (USDA), Food and Nutrition Services (FNS), and who have entered into a MOU with COUNTY for this purpose.
- B. COUNTY shall identify the Program Participant as a household eligible to participate in the CalFresh Restaurant Meals Program by encoding eligibility status on the EBT card.
- C. COUNTY shall inform Program Participants of the availability of the CalFresh Restaurant Meals Program and the names and addresses of the restaurants participating in the CalFresh Restaurant Meals Program.
- D. COUNTY shall furnish, at its discretion, informational materials for RESTAURANT to distribute, which emphasize the benefits in selecting healthier and more nutritional food.
- E. COUNTY shall furnish a sign for RESTAURANT to post in a manner and place prescribed by the COUNTY informing the general public of the RESTAURANT'S participation in this program. Included in the posting must be references to nondiscrimination statutes and regulations.

3. RESTAURANT Responsibilities

- A. RESTAURANT shall provide low cost meals for breakfast, lunch and/or dinner during regular business hours to Program Participants. Low cost meals are defined as:
 - i. Meals that cost less than what would be charged to customers not using CalFresh benefits; or
 - ii. Discounted meals already offered to certain customers; or
 - iii. Advertised special (i.e. breakfast, lunch, and/or dinner combination meals) or sale priced meals, offered to all customers.
- B. RESTAURANT shall include healthy options in the low cost meals menu.
- C. RESTAURANT shall distribute informational materials supplied by the COUNTY at their discretion that emphasizes the benefits in selecting healthier and more nutritious food.
- D. RESTAURANT shall require verification that Program Participants are eligible to purchase meals using CalFresh benefits. Verification of the CalFresh Restaurant Meals Program eligibility is performed electronically via a Golden State Advantage EBT card at the Point of Sale (POS) device.
- E. RESTAURANT shall provide meals to all Program Participants under this MOU without regard to race, color, creed, religion, national origin, ethnic group identification, age, sexual orientation, gender, domestic partner status, marital status, political beliefs, disability, association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.
- F. RESTAURANT shall collect payment from Program Participants eligible under this MOU by use of the Golden State Advantage EBT card or cash.

- G. RESTAURANT shall install Electronic Benefit Transfer (EBT) equipment, and/or software from an EBT certified processor and be available to service CalFresh Restaurant Meals Program Participants within 60 calendar days of notification from COUNTY acknowledging FNS Certification.
- H. RESTAURANT shall post a sign in a manner and place prescribed by the COUNTY informing the general public of the RESTAURANT'S participation in this program. Included in the posting must be references to nondiscrimination statutes and regulations. The RESTAURANT shall remove the sign when the RESTAURANT terminates participation in the program.
- I. RESTAURANT shall NOT include a service gratuity, nor is the RESTAURANT permitted to accept CalFresh benefits as payment of a gratuity. Furthermore, RESTAURANT shall not charge a sales or meals tax to any Program Participant who uses CalFresh benefits to purchase a meal.
- J. RESTAURANT shall NOT accept CalFresh benefits as payment for gift cards.
- K. RESTAURANT shall NOT accept CalFresh benefits for the purchase of alcoholic beverages.
- L. RESTAURANT shall abide by the rules and regulations of the USDA and the California Department of Social Services (CDSS) regarding CalFresh acceptance and redemption.
- M. RESTAURANT will complete a *USDA Food Stamp Application for Meal Services* (FORM FNS 252-2 or its federally approved replacement). RESTAURANT must provide COUNTY with a copy of the certification document once received from FNS.
- N. RESTAURANT shall provide to the COUNTY an Incident Report (Exhibit A, attached hereto and incorporated by this reference) in the event that it becomes necessary to report that something occurred in the course of business that may have a significant impact on CalFresh Restaurant Meals Program participants. This may include, but is not limited to, incidents of food borne bacteria that may cause illness or an illness of an employee that is of a nature that customers may have been exposed or put at risk of contracting an illness or disease. Incident Reports must be submitted in writing to the County of San Diego Health and Human Services Agency (HHSA) CalFresh Program Specialist within 72 hours of the occurrence or within 72 hours of learning of an occurrence of such incident.
- O. RESTAURANT shall comply with all local, state, and federal health and safety regulations pertaining to retail food operations. RESTAURANT shall maintain a retail food permit, issued by the County of San Diego, throughout the term of this MOU. RESTAURANT shall provide a copy of such current permit upon request of COUNTY.
- P. Participation in the Restaurant Meals Program is contingent on the maintenance of an A rating as determined by the County of San Diego Department of Environmental Health.

4. Participant Complaints

RESTAURANT shall develop, implement, and maintain procedures for receiving, investigating, and responding to user complaints that are directly related to participants of the CalFresh Restaurant Meals Program.

5. Program Monitoring

COUNTY shall monitor the RESTAURANT operations conducted under this MOU to determine whether the RESTAURANT operation conforms to County policy, federal and State statutes and regulations, and the terms of this MOU, related to this program.

- i. COUNTY may conduct participant interviews to determine program compliance.
- ii. RESTAURANT agrees to participate in and cooperate with studies and surveys COUNTY deems necessary to meet its monitoring and evaluation responsibility.
- iii. RESTAURANT shall furnish all data, statements, records, information, and reports necessary for COUNTY to monitor, review, and evaluate the program and its components.
- iv. If, in the course of monitoring and evaluation, COUNTY discovers any practice, procedure or policy of the RESTAURANT that deviates from the terms of this MOU; that violates State or federal statutes or regulations; that threatens the success of the program carried on pursuant to this MOU; or that jeopardizes the fiscal integrity of said program, COUNTY may issue a corrective action that shall be addressed in writing to the COUNTY within fifteen business days to continue this program.

Article II

Other Terms and Conditions

1. Compliance with Statutes and Regulations

- A. RESTAURANT must, during the term of this MOU, comply with all applicable federal and State statutes, local rules, regulations, and laws relating to its performance under this MOU. To the extent that said statutes and regulations that are in conflict with provisions of this MOU, the statute or regulation prevail. RESTAURANT must also obtain and maintain all licenses and permits appropriate to its proper and effective performance under this MOU, prior to date of commencement.
- B. RESTAURANT facilities must comply with the applicable rules, including, with limitation, those which govern health and safety, accessibility to persons with disabilities, and prevention of unhealthy conditions.

2. Confidentiality

RESTAURANT and any employees performing services at its direction agree to comply with the provisions of Sections 827 and 10850 et. seq. of the Welfare and Institutions Code (WIC) and the California Department of Social Services (CDSS) Manual of Policies and Procedures, Division 19 Regulations. These provisions refer to the confidentiality of case files, electronic records, and program participation status of clients.

- i. All applications and records concerning any individual receiving services pursuant to this contract are confidential and are not open to examination for any purpose not directly connected with the administration, performance compliance, monitoring, or auditing of the program.
- ii. No person may publish, disclose, use, or permit or cause to be published or disclosed; any confidential information pertaining to services, except as provided by law.

Any inadvertent or willful disclosure of any confidential information may result in criminal penalties.

3. Indemnify

RESTAURANT shall defend, indemnify, and hold harmless the COUNTY, its officers, agents, and employees from any claim, liability, loss, injury, or damage arising out of, or in connection with, performance of this MOU by Program Participants and RESTAURANT and/or its agents, employees, or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County of San Diego. It is the intent of the parties to this MOU to provide the broadest possible coverage for the County of San Diego. RESTAURANT shall reimburse the COUNTY for all costs, attorneys' fees, expenses, and liabilities incurred with respect to any litigation in which RESTAURANT is obligated to indemnify, defend, and hold harmless the County of San Diego under this MOU.

5. Insurance

A. Without limiting the RESTAURANT indemnification obligation, RESTAURANT shall provide and maintain at its own expense, during the term of this MOU, or as may be further required herein, a program of General Liability Insurance, endorsed as follows:

"County of San Diego, and members of the Board of Supervisors of the County of San Diego, and the officers, agents, and employees of the County of San Diego, individually and collectively, as additional insureds."

i. Commercial General Liability Insurance – for bodily injury (including death) and property damage which provides limits as follows:

(1) Each occurrence	\$1,000,000
(2) General aggregate	\$2,000,000
(3) Products/Completed Operations aggregate	\$2,000,000
(4) Personal Injury	\$1,000,000

ii. General Liability coverage shall include:

- (1) Premises and Operations
- (2) Products/Completed
- (3) Personal Injury liability
- (4) Severability of Interest

B. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the COUNTY. A certificate of insurance or other evidence of coverage satisfactory to COUNTY shall be delivered to:

HHSA Contact: Health and Human Services Agency
Attn: CalFresh Program Specialist
Tami Gaines
1255 Imperial Avenue, Room 446
San Diego, CA 92101

C. Failure by RESTAURANT to maintain the required insurance or to provide evidence of insurance coverage acceptable to COUNTY shall constitute a material breach upon which COUNTY may immediately terminate this MOU prior to commencing services under this MOU or at any time thereafter.

6. Notices

Communications relating to this MOU will be in writing and shall be delivered personally, sent by United States mail, first class postage prepaid, or by private messenger or courier service to

the addresses set forth below, except where designated to send information to the HHSA Program Specialist:

Health and Human Services Agency
Attn: CalFresh Program Specialist
Tami Gaines
1255 Imperial Avenue, Room 446
San Diego, CA 92101

Restaurant Name:

7. Amendments

The provisions of this MOU may be amended only by an instrument in writing signed by the Director of the Health and Human Services Agency, or designee, and an authorized representative of the RESTAURANT.

8. Termination

A. Termination of Convenience

COUNTY and/or RESTAURANT may request a termination of convenience (without cause) by notifying the other party in writing 30 days prior to the effective date of termination.

B. Termination for Cause

Involvement of the RESTAURANT in any illegal activity or FNS disqualification resulting from Supplemental Nutrition Assistance Program (CalFresh) violations may result in permanent termination from the Program for all restaurants under the same ownership and/or MOU.

COUNTY may, at any time, in its absolute discretion, elect to suspend or terminate this MOU, in whole or in part, for cause, by giving written notice specifying the effective date and scope of such termination which may include, but is not limited to:

This MOU may be terminated immediately if RESTAURANT is:

- I. Decertified by the USDA; and/or
- II. Fails to abide by the terms of this MOU; and/or
- III. Fails to maintain a current retail food permit; and/or
- IV. Funding becomes unavailable, or limited; and/or
- V. There are changes in State and/or federal laws.

IN WITNESS WHEREOF, the parties hereto have executed this MOU on the day first mentioned above.

County of San Diego
Health and Human Services Agency

NICK MACCHIONE, MS, MPH, FACHE, Director

Authorized Representative

Date

Date

Senior Deputy County Counsel

Date